

**From:** Bill Martin  
**To:** Microsoft ATR  
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**Subject:** comments on proposed Microsoft settlement

As someone who has long believed that government anti-trust enforcement was unnecessarily heavy handed, I am nonetheless appalled and outraged by the Justice Department's handling of the Microsoft case.

I have studied what I can find about the terms of the agreement, and find myself wondering whether Mr. James had the wool pulled over his eyes due to his ignorance of (and/or bad advice on) the technical aspects involved, or whether "the (political) fix was in." I am a retired Fortune 500 corporate financial executive, and as such, with in-house legal assistance, negotiated many eight figure financings and other agreements. I have never seen an agreement so full of loopholes. I honestly believe that the settlement agreement is worse than no settlement at all.

For the last four years, I have worked as the (volunteer) computer staff person for a local professional performing arts organization. I first built the network, including repairing and upgrading a hodge podge collection of donated PCs and building the server. I have then kept the network maintained since then, upgrading it when necessary. As such, I have greatly expanded my long time computer hobbyist's knowledge and am well aware of Microsoft's transgressions. I have watched them target and destroy many entrenched or potential competitors by improper use of their OS monopoly. I have seen them tell outrageous lies to the public, and later to the courts, to maintain and build their monopoly. I am a lifelong believer in free markets and capitalism; their behavior is an embarrassment to me and gives aid to those who would replace our economic system with socialism or state capitalism.

To refute just one faulty Microsoft technical argument that DOJ improperly accepted, secrecy is not a necessary, nor even a reliable, way to build a secure operating system. Microsoft used the secrecy = security argument to sell DOJ on allowing it to improperly keep parts of its OS inaccessible to firms writing competitive applications. Yet the most secure PC operating system in the world (Open BSD Unix) has made its code public. The ultimate security comes from having others review the code to find flaws. Microsoft's secrecy policy does not work; new security holes are found weekly. Secrecy merely delays the discovery of problems until the software is in wide use - maximizing the problem. The public would be better served by requiring them to publish their OS secrets - better served through improved detection of security holes, and also by facilitated competitors who are able to better program applications to run on Microsoft's operating systems.

I will not get into other technical issues here; they are well documented in the industry press and the Wall Street Journal. And their

transgressions are well documented in the court record.

Where is the punishment for their past misdeeds and perjuries?

Where is the incentive for them not to continue the practices that the appeals court has properly found to be illegal?

Where is there a single provision in the agreement that does not have at least one large loophole? They have clearly demonstrated that they will use (and extend aggressively) any opening that they can find (or create (or imagine).)

Microsoft has made fools of the DOJ. Please go back to the negotiating table or the courtroom. Further delay in justice is better than legitimizing Microsoft's illegalities and other misdeeds. The health of our economy demands it.

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